

June 16, 2017

Rebecca J. Schwartz

NOTICE OF EX PARTE PRESENTATION

Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

2555 Grand Blvd.
Kansas City, Missouri 64108
t 816.474.6550
dd 816.559.2235
f 816.421.5547
rschwartz@shb.com

Re: Ex Parte Meeting, CG Docket No. 02-278, Mobile Media Technologies Petition for Declaratory Ruling or, in the Alternative, Retroactive Waiver

Dear Ms. Dortch:

This *Ex Parte* Notice relates to a meeting on June 14, 2017 between Rob Sweeney, Founder and CEO of Mobile Media Technologies, Kristina Sesek of the U.S. Chamber of Commerce, and Mr. Zenji Nakazawa, Deputy Chief, Public Safety & Homeland Security Bureau at the FCC. The purpose and content of the meeting was to discuss MMT's pending Petition for Declaratory Ruling filed April 4, 2016, on behalf of Mr. Sweeney's company, Mobile Media Technologies ("MMT"). That Petition was assigned FCC Filing ID No. 60001535577.

MMT's Petition seeks a declaratory ruling clarifying that neither the Telephone Consumer Protection Act ("TCPA") nor the Commission's Declaratory Ruling and Order released July 10, 2015 (the "DRO") require a party transmitting a text message to create or make available to consumer a *specific* or *particular* method by which a consumer may revoke prior express consent to be texted, including bilateral reply "STOP" text messaging functionality. The Petition further requests a declaratory ruling confirming that a "reasonable method" of revoking consent must, at a minimum, be a method that actually reaches the texting party. Alternatively, the Petition requests a limited (120 day) waiver of the DRO to the extent the DRO *does* establish that the TCPA requires a texting party to provide consumers bilateral texting functionality as a specific and particular method for revoking prior express consent.

Mr. Sweeney described to Mr. Nakazawa how Mobile Media Technology's patented application, called TextCaster, not only obtains prior written express consent from persons seeking to receive non-commercial text messages, but also uses a patented process to take subscribers through authentication of

their mobile phone numbers. Mr. Sweeney also described how the same process can be used to opt-out of receiving future messages, noting that the process itself was incorporated into the Mobile Marketing Association's Best Practices. Mr. Sweeney explained to Mr. Nakazawa that TextCaster had been used successfully by MMT's customers for many years to enable permission-based text message delivery to their subscribers.

Marlene H. Dortch
June 16, 2017
Page 2

Mr. Sweeney described the problems that had arisen for his company in the wake of the DRO's issuance, and specifically a series of Telephone Consumer Protection Act ("TCPA") demand letters that were sent by a single plaintiff's firm to a number of MMT's customers. This included a discussion about how the putative plaintiffs had threatened class action litigation against MMT's customers, as well as about how those plaintiffs had gone about signing up to receive text messages before attempting to opt-out using the (then-non-functional) reply "STOP" method.

Mr. Sweeney explained to Mr. Nakazawa that although it was not required by the nation's wireless carriers, MMT had actually started working on incorporating the reply "STOP" bilateral functionality even before the DRO was issued, but that it took time to fully and finally implement because MMT worked with so many carriers. Nonetheless, MMT had implemented that functionality by mid-November, 2015.

Mr. Sweeney provided Mr. Nakazawa a copy of MMT's Petition. Mr. Nakazawa asked why the relief sought was necessary given that bilateral functionality (to capture reply "STOP" text messages) had already been implemented. Mr. Sweeney explained that without that relief, the threat of litigation based on pre-implementation revocations attempted by way of the reply "STOP" method would persist for the remainder of the TCPA's (four-year) statute of limitations period. Mr. Sweeney further noted that he is seeking to have the cloud over MMT eliminated so that it can move on with growing its business serving media companies and other organizations.

Any questions about this should be directed to the undersigned counsel for MMT.

Respectfully submitted,



Rebecca J. Schwartz

cc: Zenji Nakazawa
Kristina Seseck
Rob Sweeney